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HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Letter dated 22 September 1994 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General

I have the honour to submit herewith the text of the message delivered by the President of the Republic of Colombia, Ernesto Samper, to all Colombians in connection with the observance on 9 September 1994 of National Human Rights Day.

The text contains the general outline of the new policy for the protection of human rights in Colombia, and puts forward innovative elements relating to the safeguarding of the fundamental rights of the individual.

I should be grateful if you would have this letter and the message annexed hereto circulated as a document of the General Assembly under item 103 (b) of the provisional agenda.

(Signed) Julio LONDOÑO
Ambassador
Permanent Representative

* A/49/150.

ANNEX

Message delivered by the President of Colombia to all Colombians in connection with the observance on 9 September 1994 of National Human Rights Day

On the occasion of the observance today of National Human Rights Day, the President of the Republic has issued the following statement, indicating the central elements of the current Government's human rights policy.

I. HUMAN RIGHTS IN COLOMBIA AND THE INTERNATIONAL COMMUNITY

The national Government is fully aware that the question of human rights is one of realities and not one of appearances. We in Colombia must reduce the level of, and ultimately put a stop to, violence, political violence and human rights violations. Until we succeed in working with determination and dedication towards that end, and until we obtain tangible results, we shall be failing in our duties to ourselves as citizens of a democratic, modern and civilized nation.

Further, pursuance of a human rights policy has become a precondition for the opening up of new markets, the creation of investment opportunities and gaining access to strategic materials. Colombia cannot afford to be left behind in the globalization of development opportunities through any failure to comply with basic commitments in connection with the defence of fundamental rights.

Despite the difficult circumstances which Colombia is experiencing in terms of violence and public order, let us accept the challenge of showing the international community that Colombia is a country that is working unflaggingly to promote respect for human rights and international humanitarian law within its borders, that is not afraid to accept the scrutiny of intergovernmental organs and of non-governmental international human rights organizations, and that is seeking to promote the development of international law in these areas.

In pursuance of these objectives:

(a) We have issued invitations to the United Nations Commission on Human Rights Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. The Special Rapporteurs will receive full support from the Government and will be completely independent and free to travel at their discretion throughout the country and interview any individuals or groups they wish to;

(b) We have invited the United Nations High Commissioner for Human Rights to visit the country, and we shall provide assistance and support to enable the High Commissioner to become familiar with the specific reality of our commitment to defend human rights;

(c) We shall pay particular attention to the recommendations made by technical intergovernmental bodies on policies and measures to be adopted in future to promote and protect human rights;

(d) We shall review the situation of the country in terms of international human rights law and international humanitarian law to determine the nature and degree of compliance with the instruments under which we already have commitments. We shall implement a plan of action relating to the adoption of such internal measures as are necessary for appropriate implementation of international human rights law and international humanitarian law;

(e) We shall invite Amnesty International to open a permanent office in Colombia to monitor the human rights situation; and

(f) We shall submit to the Congress of the Republic for review a bill which would authorize the national Government to defray, from the national budget, the cost of compensation and damages for violations of fundamental rights, where payment has been ordered by intergovernmental human rights bodies.

II. REGULATION OF THE INTERNAL ARMED CONFLICT

The consolidation of peace is a prerequisite for the full observance of human rights in Colombia. This is one of the reasons why the current Government has committed itself fully to the peace endeavour, in which it hopes that it can rely on the support of every element within the State and society.

The High Commissioner for Peace has responsibility for bringing about conditions in which a lasting peace can be attained: respect for human rights is one such condition.

The existence of an internal armed conflict cannot serve as a pretext for violations of human rights and of international humanitarian law. The treatment received by members of government forces and of insurgent groups no longer capable of combat, or the civilian population trapped in conflicts and affected by their outcome, has differed, as is well known, at various times in the international and national history of conflict. Yet there must be an end to brutality and barbarity in the conduct of hostilities. These must be countered through systematic and ongoing efforts to regulate conflict and make it less inhumane.

Bearing these considerations in mind, the Government has submitted to the Congress of the Republic for review a bill which would approve Colombia's accession to additional Protocol II to the 1949 Geneva Conventions on international humanitarian law. It is public knowledge that the armed forces of a State are obliged to act within the parameters of international humanitarian law, in consonance with article 3 of the various Geneva Conventions, adopted by Colombia in Act No. 5 of 1960. Nevertheless, accession to the refinements of humanitarian law contained in Protocol II would reflect progress for various reasons:

(a) Colombia's accession to Protocol II would be a gesture of great importance as an expression of the will of the State and Government to make the armed conflict being experienced by the country less inhumane;

(b) If Colombia accedes to the Protocol it will send a clear signal to all members of government forces of the firm determination of the public authorities that any offensive or defensive military activity by the State must be carried out in full respect for the fundamental rights of Colombian citizens;

(c) Accession would also mean the availability of highly appropriate criteria on interpretation, as well as of developments and additions to the rather truncated provisions of article 3 which is common to the Geneva Conventions, enabling these to be applied strictly and carefully in the various circumstances arising in armed confrontation;

(d) Lastly, the very fact of issuing the act of accession, would constitute a deeply significant ethical and political notice to the forces of subversion that they should cease carrying out atrocities against members of government forces in defenceless situations - and, in general, against the civilian population - in the conduct of their campaign - which is, moreover, illegitimate and illegal - against the Colombian State.

It should not be forgotten that one of the factors which has had the greatest impact in the worsening of the armed confrontation in Colombia is the widespread employment by guerrilla forces of practices which are at great variance with rules on the regulation of war. To avert any further such deterioration in the confrontation, public opinion must remain critical and vigilant regarding acts by subversive elements, as viewed from the perspective of international humanitarian law.

III. THE STRUGGLE AGAINST IMPUNITY

Impunity has become a factor in the multiplication and expansion of human rights violations in Colombia. It must therefore be dealt with firmly.

This serious situation reflects deep-rooted problems in Colombian society. Firstly, we are faced with increasingly widespread criminal behaviour, exceeding the capacity of the judicial system to cope with it. In order to deal with this situation, the Government will take additional steps in the direction of increasing the State's efforts to provide the judiciary with the human, financial, material and technical resources necessary to its task. Particular attention will be given to the proper control of the resources provided, so that they are invested and spent in accordance with modern management principles. The problem is not only one of financing, but also of the administration of justice.

Not only has impunity in Colombia reached frightening levels, but - and this is less well known - it exists in connection with crimes committed against people from all social and political backgrounds. The rates of impunity in respect of the murders of the 500 police officers who have lost their lives in Medellín in recent years, the murders of political party leaders and activists

who have paid with their lives for pursuing legitimate activities, and the kidnappings of ranchers, shopkeepers and businessmen of widely varying social levels, are no lower than those regarding the murders of members and supporters of opposition groups and of leaders and activists of trade union, civic and social movements.

It is however undeniable that impunity arouses greater feelings of revulsion when the crimes are committed directly by agents of the State or with their collusion, since government authorities' very reason for being is to ensure respect for the rights of each and every member of society. The State must therefore act with all due vigour to punish those who betray their trust as guardians of democratic legality. To that end, the Government will proceed with a firm and resolute political will.

In order to overcome impunity, we intend to work in various ways, including the following:

(a) In order to clear the judicial backlog, we will present a Bill in Congress to speed up the proceedings so that offenders do not wind up having to be released because of the ban of the statute of limitations, which is the legal equivalent of the "dream of the unjust";

(b) We will urge the Office of the Attorney-General to give high priority to the investigation of human rights violations by creating special prosecuting units for that purpose;

(c) We will expedite the reform of the military system of justice, adapting it to the Constitution of 1991 and reinforcing it as an effective instrument for the investigation and punishment of crimes committed by members of government forces on active service and in connection with that service;

(d) We will give especially high priority to the investigation of certain particularly heinous instances of human rights violation, and in particular of massacres and killings which have occurred on several occasions and have caused public indignation;

(e) We will reinforce, to the maximum possible extent, the witness protection programmes of the Attorney-General's Office, giving especial support to activities designed to shield those who make statements or provide evidence in criminal or disciplinary cases arising from human rights violations;

(f) In concert with organizations made up of the victims or their relatives or co-workers, we will expedite those prosecutions arising out of killings, forced disappearances and torture which have been inflicted on members of particular groups, such as trade union organizations, opposition groups, the indigenous population, journalists and human rights activists;

(g) We will reactivate and rationalize inter-agency arrangements for the recording and follow-up of cases of human rights violation and for expediting corresponding proceedings. An Executive Committee on Human Rights will be set up, with representatives of the Special Prosecutor (Procuradoría), the Ombudsman

(Defensor del Pueblo), the Presidential Council on Human Rights, the Attorney General and the Ministry of Foreign Affairs;

(h) We will work to strengthen the internal monitoring of government forces by enhancing both the quality and the quantity of the human, technical and material resources available to them.

IV. OTHER MECHANISMS AND MEASURES FOR THE PROTECTION AND DEFENCE OF HUMAN RIGHTS

In order to make the human rights protection mechanisms more comprehensive and effective, we will also adopt the following measures:

(a) We will set up human rights offices at all military garrisons and police stations in order to monitor human rights and to ensure that military and police personnel are familiar with such rights;

(b) Steps will be taken to ensure that officials from the courts and from the Office of the Attorney-General can obtain access to those places or regions where their presence may be required for the fulfilment of their legal duties. To this end, a coordinated programme will be set up, devised with the help of the law enforcement agencies and the executive branch of the State, including in particular senior military and police authorities. It is the Government's clear intention that this participation shall under no circumstances become an obstacle to the confidentiality and effectiveness required by these operations;

(c) We will give our full support to the International Committee of the Red Cross to enable it to obtain prompt and complete information from all Government authorities regarding any arrests and detentions carried out, and to visit all centres of detention and imprisonment existing throughout the country;

(d) We will provide support to municipal agents for the purposes described in the previous paragraph, within the area of jurisdiction of each one.

V. ERADICATION OF "PARAMILITARISM"

It is public knowledge that what is referred to as "paramilitarism" is very closely linked to the "territorialization" of a share of the proceeds from drug trafficking, which undermines the legitimate monopoly which the State should have over law enforcement. The issue of private law enforcement groups should therefore be addressed as part of the global strategy to combat paramilitarism.

There is another quite limited phenomenon, namely, the rural "self-defence units" which have been established in response to the violations committed by subversive groups. Sometimes these groups, instead of being merely defensive, move to the offensive, proselytizing in a coercive manner and attacking and committing crimes against persons who support - or who are believed to support - the guerrillas.

Accordingly, the phenomenon of private law enforcement groups must be addressed by an overall strategy, which the Government must formulate and apply consistently. Such a strategy might consist of:

(a) Updating the offences outlined in decrees 813, 814 and 815 of 1989 with a view to combating self-defence units and private law enforcement groups;

(b) Dealing with the effect of the "territorialization" of proceeds from drug-trafficking on the formation of irregular armed groups in the context of a global strategy against drug trafficking;

(c) Supporting the commitment undertaken by the office of the Attorney General to adopt efficient mechanisms to combat private law enforcement groups, for example by establishing special units for the investigation and punishment of offences committed by such groups;

(d) Designing and implementing a policy specifically aimed at ensuring that the members of such groups are brought to justice.

VI. PROGRAMMES FOR PERSONS DISPLACED BY POLITICAL VIOLENCE

The Colombian Government recognizes that violence is resulting in the forced displacement of people within the country. This phenomenon has not been properly studied and there are no reliable estimates of its magnitude. It is caused by a combination of factors, one of them being guerrilla activity. None the less, the State has a clear responsibility with regard to the forced displacement of persons.

Some of the steps we intend to take in that connection are:

(a) Include the question of displacement in the development plan being elaborated by the current administration;

(b) Address the emergency needs of recently displaced persons and promote and finance productive projects in order to create jobs and to meet the basic needs of displaced persons and population groups, drawing on the resources of the Social Solidarity Network and other social funds;

(c) Establish promptly legal norms in the interests of the rural population which has been displaced by violence and is now crowded into the cities so as to enable it to benefit from the agrarian reform system through, inter alia, such instruments as loans and subsidies;

We will also devote particular attention to identifying the processes and dynamics of violence which are causing these population movements in various regional and local contexts. We will attempt to check such processes and, when the safety of these persons is no longer at risk, develop programmes for their voluntary return to their places of origin.

VII. HUMAN RIGHTS EDUCATION

The Colombian Government will do its utmost to implement fully the legal provisions concerning the human rights education of Colombian children and youth.

Special attention will be devoted to the question of the human rights education of members of government forces.

The attitude of the military and police forces in this regard is one of openness and commitment. This attitude is manifested in different ways. The number of hours devoted to the subject of human rights has been increased in a number of training school programmes. There is a trend towards redesigning the curriculum in order to cover the subject more fully. Academic sessions for the training of instructors and trainers have been held and campaigns for the wide dissemination of information on basic human rights to non-commissioned officers, soldiers and police officers have been launched. A whole new teaching method is being applied to human rights and international humanitarian law.

I should stress, in particular, that all these advances have been achieved with the firm support of the military authorities.

In order to ensure that the spread and development of this dynamic will bring about optimum results, the Government will consider the possibility of sponsoring a law which would establish the objectives of human rights training for members of government forces, the curriculum, the number of hours required and the qualifications required of the instructors.

The Government's aims go way beyond what we have described above. It is well known that the problem of political violence and of human rights violations in Colombia is occurring in the context of a crisis in the underlying values of harmonious social relations and of widespread aggressive behaviour and attitudes in the most diverse spheres of daily, family, working and street life. In order to combat these very serious phenomena, we must develop comprehensive citizen training and mobilization programmes based on an ethic which champions life, social harmony and respect for rights. It is the Government's intention to formulate a broad appeal, to all State bodies and to the hundreds of thousands of persons and organizations which constitute civil society's ethical and democratic reserves, to work on the design and implementation of such training and mobilization programmes.

VIII. SECURITY OF THE PEOPLE

The Government will undertake a review of the reform of the National Police, which is dealt with in Act No. 62 of 1993. We will evaluate the regulations established under the Act, the institutional developments to which they have given rise and the way they have been applied in practice. Based on this evaluation we will determine the criteria to be followed in consolidating and pursuing the reform.

One aspect of the reform that the Government views with great interest is the system of citizen participation in police matters. As it is anxious to find a way to promote a democratic and participatory approach to citizen security the Government has given priority to the issue of the ties that must exist both between communities and between them and the National Police. We are convinced that the police force as an institution is fully prepared to expand and strengthen those relationships and to put into practice the mechanisms provided in Act No. 62 of 1993 for that purpose. We will strive to give those mechanisms the full scope and force which they were intended to have.

The Government believes that, in order to deal more effectively with the escalating crime and violence afflicting Colombian society, it is necessary to strengthen existing instruments with norms and activities that will improve the relationship between the different State law-enforcement agencies and the people. Only if the communities take it upon themselves to ensure the security of all and combine their efforts with those of the authorities, in harmony and cooperation, will Colombians be able to achieve what they most desire: security of life and property, respect for the dignity and honour of individuals and favourable conditions for the development of initiative and hard work.

The mechanisms for ensuring peace and justice must be flexible, responsive to the needs of each region and conducive to citizen participation. Governors and mayors must learn to make full use of their oversight functions and must participate in decisions and plans relating to security. There should be means whereby people could participate in disturbance preparedness plans, support and activate police procedures and maintain democratic watchdog groups governed by the law, which would enable the State to guide social relationships more effectively.

Accordingly, the Government is studying the elaboration of regulations for the protection of citizens, which would provide the State and civil society with appropriate means to begin the formidable task of restoring to Colombians their hopes for a just, free, peaceful and civilized society, where current problems of crime and violence would have no place and no possible future.

IX. OTHER ASPECTS OF THE LEGISLATIVE AGENDA

In addition to the topics already mentioned as part of the legislative agenda in the area of human rights which the National Government plans to promote, we will attempt to address others which have a direct effect on relevant aspects of the issue.

We will promote the criminalization of genocide, child abuse and abuse of the most vulnerable groups in society, and we will support the regulation of enforcement actions and of the public right of action. We will pay close attention to the discussion of the proposals coming from other areas of the State and civil society on such topics as the regulation of habeas corpus and the criminalization of terrorism. In addressing these questions, the Government will always be guided by a concern for safeguarding the fundamental rights of all citizens, democratic institutions, and harmonious relations among the people.

X. RELATIONS WITH NON-GOVERNMENTAL HUMAN RIGHTS ORGANIZATIONS

The current Government will have an open-door policy towards individuals and private organizations devoted to the promotion and protection of human rights. It will consider them allies in the task of safeguarding the fundamental rights of the inhabitants of our native land. The Government will have discussions with such organizations whenever necessary on any diagnoses and criticisms they may offer and any policies they may propose for addressing the various aspects of the above-mentioned problems; it will expect them to be objecti in their judgements and to provide sound analyses, but it will not disquali such groups or attempt to strip them of legitimacy. The Government will seek to maintain constructive relations with human rights organizations in an attempt to stop violations of those rights, and will do whatever is necessary to protect the lives and integrity of their members.

The Government will promote procedures for coordination of policies and measures for the protection and defence of human rights, and will heed any suggestions that may be made on the subject. In the understanding that fundamental rights as such are non-negotiable, it holds the conviction that the elaboration of mechanisms to safeguard these rights in specific contexts should, as a general rule, be a matter for democratic deliberation. It will join in such deliberations with all seriousness, with respect for its critics and in good faith.

Fellow Colombians: Let us show the international community that we are a country committed to the protection of fundamental rights. No matter how great the efforts we must make or the sacrifices we must accept, we will prove to the world that we are a country under the rule of law and a sound democracy whose armed forces respect the people, and as such we will make good this commitment. We invite all, on this National Human Rights Day, to look with optimism towards the future of Colombia.

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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Letter dated 22 September 1994 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the text of the statement issued on 19 September 1994 by the Government of Colombia regarding the agreement reached between the representatives of the United States Government and the military authorities in Haiti (see annex).

I should be grateful if you would have this letter and its annex distributed as a document of the General Assembly under item 34 of the provisional agenda.

(Signed) Julio LONDOÑO
Ambassador
Permanent Representative

* A/49/150.

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ANNEX

Statement issued on 19 September 1994 by the Government of Colombia

The Government of Colombia welcomes the agreement reached yesterday between the representatives of the United States Government and the military authorities in Haiti, under which there will be a peaceful transfer of power to President Jean-Bertrand Aristide.

The President of the United States, Bill Clinton, has achieved a triumph of major importance for the entire hemisphere by choosing the path of peaceful negotiation and securing the return of the President elected by popular vote, as requested by the Rio Group and other spokesmen throughout the continent.

The Government of Colombia, as announced some time ago, is prepared to work with the United States, the Organization of American States and other bodies on cooperation programmes aimed at rebuilding institutions, promoting economic development and combating poverty in Haiti.

Likewise, it reiterates its confidence in and commitment to the mechanisms for peaceful settlement of disputes, non-intervention, the full applicability of international law and cooperation among nations.

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REVIEW OF THE EFFICIENCY OF THE ADMINISTRATIVE AND FINANCIAL FUNCTIONING OF THE UNITED NATIONS

Jurisdictional and procedural mechanism for the proper management of resources and funds of the United Nations

Report of the Ad Hoc Intergovernmental Working Group of Experts established pursuant to General Assembly resolution 48/218 A

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I. INTRODUCTION

1. On 23 December 1993, the General Assembly adopted resolution 48/218 A, entitled "Review of the efficiency of the administrative and financial functioning of the United Nations". In section III of that resolution, the Assembly, stressing the necessity for the proper management of resources and funds of the United Nations and determined to address alleged cases of fraud in the United Nations in an impartial manner, in accordance with due process of law and full respect for the rights of each individual concerned, especially the rights of defence, decided to study the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms.

2. The General Assembly also decided to establish an ad hoc intergovernmental working group of experts in the legal and financial fields, which was to work in consultation with the relevant existing bodies and was to submit a report to the Assembly with specific recommendations no later than at its forty-ninth session.

3. The General Assembly further decided that the Working Group would consist of 25 members and invited the President of the General Assembly to define the composition of the Working Group with due regard for equitable geographical representation and to convene it as soon as possible but no later than 31 March 1994.

4. The Secretary-General was requested by the General Assembly to provide the Working Group with the necessary services and to seek the views of Member States on the issue of the new mechanism or the extension of mandates and improvement of the functioning of existing mechanisms, and to bring those views to the attention of both the Working Group and the Assembly.

5. Pursuant to that request, the Secretary-General, on 3 February 1994, addressed a note verbale to all Member States requesting their views on the issue. The replies of 14 Governments are contained in documents A/49/98 and Corr.1 and Add.1 and 2.

6. The Ad Hoc Intergovernmental Working Group of Experts held three sessions at Headquarters, the first from 11 to 15 April 1994, the second from 13 to 17 June 1994 and the third from 6 to 9 September 1994.

II. ORGANIZATIONAL MATTERS

A. Opening of the session

7. The first session of the Working Group was opened by the President of the forty-eighth session of the General Assembly. He welcomed all the participants and recalled the circumstances under which the Assembly had decided to establish the Working Group. He noted that the Assembly had been considering ways and means of improving the efficiency of the Organization, including how to deal with cases of fraud and presumptive fraud. He recalled that, at the forty-

eighth session, the question of the adequacy of the judicial mechanism in existence for the Organization to deal with cases of fraud had been raised by the Minister for Foreign Affairs of France. The President recalled that, following discussions in the Fifth Committee, it had been unanimously agreed to establish an ad hoc intergovernmental working group of experts in the legal and financial fields to review the matter, with a view to determining whether a new jurisdictional and procedural mechanism would be warranted or whether the situation required an extension of the mandates and an improvement of the functioning of existing jurisdictional and procedural mechanisms.

8. The President acknowledged that the task before the Ad Hoc Working Group was a difficult one. However, he was confident that given the experience and expertise of the participants they would overcome the difficulties. He wished the Working Group success in its work.

B. Attendance

9. The first and second sessions were attended by experts from 24 Member States, while the third session was attended by experts from 20 Member States. The list of experts is contained in annex I to the present report.

C. Election of officers

10. At its 1st meeting, on 11 April 1994, the Working Group elected by acclamation Mr. Mame Balla Sy (Senegal) as its Chairman. The Chairman thanked the Working Group for the confidence placed in him and observed that the subject before the Working Group was a very important and complex one. He expressed his confidence, however, that through their joint endeavours they would arrive at a successful conclusion. He was particularly encouraged by the range of expertise of the members of the Working Group.

11. Three Vice-Chairmen, Mr. Pedro Desiderio Blandino Canto (Dominican Republic), Mr. Movses Abelian (Armenia) and Ms. Bonnie Miller (Canada), and a Rapporteur, Mr. N. Sivasubramanian (India), were also elected by acclamation.

D. Adoption of the agenda

12. At its 1st meeting, on 11 April 1994, the Working Group adopted the following agenda:

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Alleged cases of fraud in the United Nations: study of the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of the mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms.

4. Adoption of the report of the Ad Hoc Intergovernmental Working Group on its first session.

13. The Working Group agreed that the same agenda would be followed at the second and third sessions.

E. Organization of work

14. At its first session, the Working Group accepted in principle to organize its work along the lines contained in a conference room paper.

F. Documentation

15. The Working Group was provided with a number of documents, the list of which is contained in annex II. Additional information was provided by representatives of invited United Nations bodies and offices (see annex III).

III. SUBSTANTIVE MATTERS

16. The Working Group started its work on the basis of an examination of existing financial and disciplinary rules and procedures within the scope of its mandate in order to determine to what extent such rules and procedures were satisfactory and whether improvements or changes might be recommended.

17. Statements were made by members of the Working Group concerning the scope and nature of their mandate. In that connection, the Working Group sought clarification from the Secretariat concerning the definition of fraud, its magnitude and the existing stages through which an alleged case of fraud would be submitted.

18. The view was expressed that it was important to study situations that might arise when financial fraud was committed or allegedly committed by United Nations staff and the national judicial proceedings that might be applied in such cases, as well as the question of the privileges and immunities of staff members and the Organization in such judicial proceedings.

19. The Working Group recalled the high standards of conduct required of staff members of the United Nations, which had been codified in article I of the Staff Regulations. It attributed the greatest importance to the full implementation of those standards in the work of the Organization. That becomes all the more necessary in the context of conflict of interest. The Working Group observed that the rules did not apply to members of troop contingents and other military personnel supplied to the United Nations by Member States for peace-keeping purposes. It considered that that gap required attention by the Organization.

20. The Working Group considered that in appointing personnel to senior positions with significant financial responsibilities, there should be written terms of reference setting out the nature of those responsibilities, the actions

expected of the staff member concerned and how he or she was to be held accountable.

21. The Working Group attributed importance to the concept of job rotation. It considered that the Organization should reinforce the importance of and need for better job rotation, notwithstanding the fact that it faced a considerable challenge in staffing its offices and missions around the world.

22. Several members of the Working Group stressed the need to have certain analyses provided, such as, for example, information on the magnitude of fraud cases in terms of both numbers and dollar value and on the number of cases strictly considered as emanating from a violation of the Financial Regulations and Rules of the United Nations, such as the bidding and procurement procedures.

23. The Working Group concluded that those issues would have to be addressed at its second session. The Secretariat was therefore requested to provide relevant information and, where necessary, to prepare documents for that purpose.

24. At its second session, the Working Group discussed the following issues, taking into account the additional information provided by the Secretariat:

(a) The magnitude of the problem and frauds committed from outside and inside the United Nations;

(b) Existing rules, procedures and mechanisms dealing with the prevention and detection of financial irregularities;

(c) Disciplinary mechanisms;

(d) Recovery.

25. In regard to the above-mentioned matters, the Working Group decided that members would submit concrete proposals, which would be discussed in depth at its third and final session, at which it would adopt its recommendations to the General Assembly.

26. Having submitted written proposals, 1/ the expert from France was requested to provide clarification of some of his proposals. Following an extensive exchange of views on that paper, the Working Group felt that the proposals represented a good basis for further study.

27. Many experts submitted proposals for tentative recommendations. The Working Group decided to confine its third session to considering these as well as other proposals that might be submitted.

28. At its third session, the Working Group first took note of the initiatives in the context of its work that had been taken by both the General Assembly and the Secretary-General during the period between the end of its second session and the beginning of its third session. It was noted that a report of the Secretary-General dated 5 August 1994 entitled "Establishment of a transparent and effective system of accountability and responsibility" 2/ was under consideration. By its resolution 48/213 B of 29 July 1994, the Assembly decided

to establish an Office of Internal Oversight Services to assist the Secretary-General in fulfilling his internal oversight responsibilities in respect of the resources and staff of the Organization. Further, the Secretary-General had initiated a review of the Financial Regulations and Rules and was in the process of convening a group of high-level experts to advise him on contracts and procurement procedures.

IV. RECOMMENDATIONS

29. The Working Group, having considered the substantive matters mentioned in section III above, concluded that there was a need to improve in certain aspects, and to strengthen in others, the financial administration of the Organization. The Working Group noted that important steps had already been initiated, by both the General Assembly and the Secretary-General, in this regard. While welcoming these developments, the Working Group nevertheless is of the view that additional action needs to be taken.

30. In establishing the Working Group, the General Assembly reiterated that it was determined to address alleged cases of fraud in the United Nations. In this context, the Working Group took note of the extraordinary increase in the conduct of peace-keeping operations in recent years and consequent high levels of expenditure. It noted a number of financially significant instances of fraud or presumptive fraud in that area and it concluded that, in view of the extremely high level of expenditure involved, procurement for peace-keeping operations constituted a major risk area of possible fraud or other abuse against the United Nations, both outside and within the Organization.

31. The Working Group also studied with care the material provided to it by the Secretariat concerning cases of fraud and presumptive fraud arising from within the United Nations during the biennium 1992-1993 and the two immediately preceding bienniums. In employing the term fraud, the Secretariat excluded waste, abuse, property loss or misleading financial information. In recent years, such cases of fraud and presumptive fraud arising from within the United Nations, have, according to the statistics presented to the Working Group by the Secretariat, not resulted in significant financial loss to the Organization. However, the Working Group considers that remedial efforts are also warranted in such cases, whether arising within or outside the Organization, and the results should be reported to the General Assembly.

32. The Working Group therefore recommends for the consideration of the General Assembly the following measures, which it considers would reduce the potential for fraud and presumptive fraud against the United Nations:

(a) Along the lines of the standing instruction from the United Nations Controller referred to in the report of the Secretary-General of 8 October 1992 (A/47/510, para. 8) for notifying the Controller of cases of fraud, suitable provisions should be made in the Financial Regulations and Rules and the Staff Regulations and Rules requiring every staff member of the United Nations to bear responsibility for the protection of the financial integrity of the United Nations and requiring him or her to report without delay to the Secretary-General any instance in which there appears to be financial irregularity or

misconduct involving the financial integrity of the United Nations, whether arising within or outside the Organization;

(b) Greater emphasis should be given to periodic training at Headquarters and other major duty stations for all authorized personnel engaged in certifying, approving, disbursing, inventory and assets control, inspecting and contracting functions having significant financial implications, and especially those similarly engaged in peace-keeping and procurement operations. The training would also cover promoting fraud awareness and ethics relevant especially to those involved in field operations;

(c) In order to promote transparency, the Working Group considered at length the usefulness and scope for the establishment of a new intergovernmental body or bodies of experts nominated by Member States and approved by the General Assembly for such purposes as, but not limited to:

(i) Overseeing the periodic review and revision of the financial and staff regulations and advising on preventive measures necessary to reduce the risk of financial irregularities;

(ii) The adjudication of complex cases of financial irregularity and fraud, and providing an opinion on the responsibility attaching to the persons involved in cases of financial irregularity and fraud;

(iii) Advising on financial matters relating to peace-keeping operations, including in particular liquidation procedures;

(iv) Monitoring the contracting process.

The Working Group would suggest that the General Assembly might study this matter further in the light of its recent initiatives;

(d) The Statute of the United Nations Administrative Tribunal should be amended to give it jurisdiction to adjudicate financial claims submitted by the Secretary-General against staff members;

(e) It is essential to take speedy action in cases of lack of integrity, as distinct from other cases of misconduct, and the Secretary-General should consider the use of provisions of article IX of the Staff Regulations to separate from service staff members whose conduct does not meet the highest standards of integrity. Invoking provisions of article IX would be preferable in cases where it is not considered necessary to deny the person payment of termination indemnity rather than carrying out the time-consuming disciplinary measures applicable to the circumstances of the case;

(f) The rules and instructions issued for constitution of the Joint Disciplinary Committee should be reviewed and provisions made in the revised rules and instructions for full-time secondment of staff members from the same or other duty stations to serve on the Joint Disciplinary Committee for the duration of the work of the Committee. Provision may also be made alternatively for the nomination of former employees or of experts from the same or nearby duty stations on the Joint Disciplinary Committee, in consultation with the

staff, where nomination of staff members to the Committee cannot be effected within the time prescribed for the constitution of the Committee;

(g) The General Assembly should consider recommending that Member States:

(i) Extend to the United Nations and to other Member States assistance in investigating and securing criminal prosecution of individuals who defraud or attempt to defraud the United Nations;

(ii) Consider enacting legislation making fraud and attempted fraud against the United Nations subject to the jurisdiction of national courts and punishable by appropriate penalties.

33. In the context of the above, the Working Group recommends that:

(a) In view of the changing mandates and requirements of the Organization, the Secretary-General should review periodically the Financial Rules and the relevant administrative instructions and amend them as appropriate;

(b) In the context of the review of the Financial Rules, and the relevant administrative instructions, suitable clarifications and a more precise definition of the following should be provided:

(i) The functions and responsibilities of: the Headquarters and, in the field, local Committees on Contracts; and the requisitioning, certifying, approving, and receiving and inspection officers;

(ii) The rules governing the delegation of authority, especially in the finance and procurement areas;

(c) The Secretary-General should promulgate additional financial and staff rules specifically for and limited to temporary peace-keeping missions that would:

(i) Ensure the independence and objectivity of persons appointed for procurement functions;

(ii) Provide for expeditious staffing and equipping of the missions;

(iii) Establish a time-limit within which an initial audit of the mission would be undertaken and provide a schedule for follow-up action;

(iv) Introduce suitable procedures and mechanisms to ensure expeditious action against personnel, both civilian and military, found to have caused damage to or loss or destruction of United Nations property;

(v) Define and delimit the circumstances for the write-off of United Nations property;

(vi) Elaborate specific procedures for the closure of the missions, including repatriation of staff and liquidation of United Nations assets;

(vii) Identify and compile a roster of banking institutions that would be willing to undertake banking activities for the United Nations in high-risk missions.

34. The Working Group would also advise the Secretary-General that surcharges should be imposed on staff members who violate the provisions of the Financial Regulations and Rules and other financial instructions of the United Nations. Where needed, amendments should be made to the Financial Regulations to amplify their provisions to enable the levy of surcharges.

35. While the primary responsibility for the prevention and detection of fraud is that of management, the Working Group believes that the strengthening of the internal and external audit functions would contribute greatly to the deterrence of fraud and other misconduct in the United Nations. Accordingly, it strongly endorses the initiatives under way in this direction. The Working Group also recommends that the Secretary-General monitor the effectiveness of the newly established United Nations Development Programme (UNDP) Committee on Personal Responsibility and Financial Liability and consider whether it would be useful to establish a similar mechanism in the United Nations. The Board of Auditors, in its recent report on UNDP, 3/ noted that the Committee was an innovation in the United Nations system and saw much merit in its activities as it sent a clear signal to staff that they were responsible for the propriety of their actions.

V. ADOPTION OF THE REPORT

36. At the 6th meeting of the third session, the Rapporteur introduced and orally amended the draft report of the Working Group. 4/ He stated that the recommendations contained in the draft report were the results of efforts made to obtain consensus. He therefore hoped that the report would be adopted by consensus. Following receipt of additional oral amendments from some experts, the draft final report as orally amended was adopted by consensus.

VI. CLOSURE OF THE SESSION

37. At the 6th meeting, the Chairman thanked the experts for the manner and spirit in which they had conducted their work. He was gratified that despite the complexity of the issues, the Working Group had managed to agree on the measures they considered necessary in order to improve the financial management of the Organization. He thanked the members of the Bureau for their assistance and cooperation. In particular, he commended the Rapporteur for the successful negotiation of the recommendations and for the timely production of the draft final report. The Chairman wished to record his appreciation and that of the other experts to the Secretary of the Working Group for the assistance that she provided. He also expressed appreciation to all the Secretariat staff for their support, and declared the work of the Ad Hoc Intergovernmental Working Group of Experts completed and the session closed.

Notes

1/ A/AC.243/1994/L.6.

2/ A/C.5/49/1.

3/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 5A (A/49/5/Add.1), sect. II, paras. 89-98.

4/ A/AC.243/1994/L.9 and Add.1.

ANNEX I

List of experts

Representatives

ALGERIA	Mr. M'hand Ladjouzi, Counsellor, Expert on Administrative and Budgetary Questions, Ministry of Foreign Affairs
ARGENTINA	H.E. Ms. Susana Ruiz Cerutti, Representative to the Swiss Confederation
ARMENIA	Mr. Movses Abelian, First Secretary, Permanent Mission
AZERBAIJAN	Mr. Rufat N. Novruzov, Counsellor, Permanent Mission
BARBADOS	H.E. Mr. E. Besley Maycock, Permanent Representative to the United Nations
BRAZIL	Mr. Lucius Maia Araujo, Auditor, Secretariat of the Treasury
CANADA	Ms. Bonnie Miller, Assistant Auditor General
CHINA	Mr. Baoliu Wang, Minister, Special Adviser on Economic Issues, Department of International Organizations and Conferences, Ministry of Foreign Affairs
COLOMBIA	Mr. Alfredo Rey, Minister Plenipotentiary, Permanent Mission
DOMINICAN REPUBLIC	H.E. Mr. Pedro Desiderio Blandino Canto, Permanent Representative to the United Nations
EGYPT	H.E. Mr. Adel El Safty, Assistant to the Minister of Foreign Affairs for Multilateral Relations
FINLAND	Dr. Erkki A. Kourula, Minister Counsellor, Permanent Mission
FRANCE	Mr. Pierre Lelong, Conseiller Maître de la Cour des comptes
GERMANY	Mr. Helmut Kitschenberg, President of the Federal Academy for Public Administration

INDIA	Mr. N. Sivasubramanian, Deputy Comptroller and Auditor General
JAPAN	Mr. Yoshikazu Toyama, First Secretary, Permanent Mission
JORDAN	Dr. Hanna S. Odeh, External consultant to the World Bank and the International Fund for Agricultural Development
MALAYSIA	Mr. Rosli bin Abdullah, Director of Corporate and Management Support, Accountant General Department, Ministry of Finance
MALI	Mr. Nahamane Amadou Maiga, Second Counsellor (economic, social, administrative and budgetary questions), Permanent Mission
RUSSIAN FEDERATION	Mr. Vladimir V. Kuznetsov, Counsellor, Permanent Mission
SENEGAL	Mr. Mame Balla Sy, Minister Counsellor, Permanent Mission
TUNISIA	Mr. Tarek Ben Hamida, Counsellor for Foreign Affairs, Permanent Mission
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	Mr. Michael Wood, Counsellor and Legal Adviser, Permanent Mission
UNITED STATES OF AMERICA	Mr. Herbert K. Reis, Adjunct Professor of Law, New York University School of Law
Alternates	
ARGENTINA	Ms. Silvia Fernandez, Secretary - Legal Adviser, Permanent Mission
COLOMBIA	Mr. Hernando Clavijo, Minister Counsellor, Permanent Mission
DOMINICAN REPUBLIC	H.E. Mr. Enriquillo A. del Rosario C., Adviser for Economic Affairs, Permanent Mission
FRANCE	Mr. Stephane Visconti, Chargé de mission au Ministère des affaires étrangères
	Mr. Jean François Bernicot, Conseiller à la Cour des comptes
	Ms. Laurence Fradin, Conseiller référendaire à la Cour des comptes

JAPAN	Mr. Hideki Goda, First Secretary, Permanent Mission
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	Mr. Clive Stitt, Counsellor, Permanent Mission

ANNEX II

List of documents

1. Report of the Secretary-General on jurisdictional and procedural mechanisms for the proper management of resources and funds of the United Nations, A/49/98 and Corr.1 and Add.1 and 2.

2. Note by the Secretary-General on review of the efficiency of the administrative and financial functioning of the United Nations, A/48/876.

3. Note by the Secretary-General on the Office for Inspections and Investigations, A/48/640.

4. Report of the Secretary-General on recovery of misappropriated funds from staff members and former staff members, A/48/572.

5. Measures to facilitate reporting by staff members of inappropriate uses of the resources of the Organization; internal controls relating to the payment of allowances and benefits; and efforts to recover outstanding excess income tax reimbursements, A/47/510.

6. Report of the Advisory Committee on Administrative and Budgetary Questions, Financial Report and Audited Financial Statements, and reports of the Board of Auditors, A/47/500.

7. Report of the Secretary-General on internal control procedures relating to benefits and allowances, A/42/437.

8. Report of the Secretary-General on the feasibility of establishing a single administrative tribunal, A/40/471.

9. General Assembly resolution 48/218 A of 23 December 1993 on the review of the efficiency of the administrative and financial functioning of the United Nations, and 48/218 B of 29 July 1994.

10. Official Records of the General Assembly, Forty-seventh Session, Supplement No. 5 (A/47/5) and addenda on the financial reports and audited financial statements for the biennium ended 31 December 1991 and report of the Board of Auditors.

11. Summary records of selected meetings of the forty-eighth session of the Fifth Committee, A/C.5/48/SR.___.

12. Provisional agenda, A/AC.243/1994/L.1.

13. Note by the Secretariat on internal disciplinary mechanisms, A/AC.243/1994/L.2.

14. Overview by the Secretariat, A/AC.243/1994/L.3.

15. Note by the Secretariat on oversight machinery, dated 7 December 1993.

16. United Nations Administrative Tribunal, Statute and Rules, AT/11/Rev.4.

17. Financial Regulations and Rules of the United Nations (series 100), ST/SGB/Financial Rules/1/Rev.3 (1985).

18. Staff Regulations ST/SGB/Staff Regulations/Rev.22.

19. Article X of the Staff Regulations on disciplinary measures.

20. Article XII of the Staff Regulations on general provisions.

21. Report on standards of conduct in the international civil service, Coord/Civil Service/5, 1986 edition.

22. Administrative instruction on revised disciplinary measures and procedures, ST/AI/371 of 2 August 1991.

23. Administrative instruction on personnel payroll clearance action, ST/AI/155/Rev.2 of 31 August 1990.

24. Personnel Directive on disciplinary procedure for Staff Serving at Offices away from Headquarters and Geneva, PD/1/76.

25. Information circular on internal recourse procedures in the United Nations Secretariat, ST/IC/82/7 of 3 February 1982.

26. Observations regarding measures to reduce alleged cases of fraud: views of the expert from France, A/AC.243/1994/L.6.

ANNEX III

List of invited representatives of United Nations bodies and offices

1. Mr. Martin Sinclair, Chairman, Audit Operations Committee and Director of External Audit, United Kingdom of Great Britain and Northern Ireland.

2. Mr. Stephen Takyi, Director of External Audit, Ghana.

3. Ambassador Mselle, Chairman, Advisory Committee on Administrative and Budgetary Questions.

4. Ms. Maria Vicien-Milburn, Executive Secretary, United Nations Administrative Tribunal.

5. Mr. Mohamed Niazi, Assistant Secretary-General, Office for Inspections and Investigations.

6. Mr. Yukio Takasu, Assistant Secretary-General, Controller.

7. Ms. Christine Dodson, Director of Personnel.

8. Ms. Susan Mills, Deputy Controller.

9. Mr. S. Basnayake, Director, Office of Legal Affairs.

10. Mr. Nicholas Sardegna, Director, Buildings and Commercial Services Division, Office of General Services.

11. Ms. Christine Rollet, Principal Officer, Office of the Under-Secretary-General, Department of Administration and Management.

UNITED
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General Assembly

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Forty-ninth session
Item 26 of the provisional agenda*

COMPLETE WITHDRAWAL OF FOREIGN MILITARY FORCES FROM THE TERRITORIES OF THE BALTIC STATES

Report of the Secretary-General

I. INTRODUCTION

1. The withdrawal of the armed forces of the former USSR from Estonia, Latvia and Lithuania has been one of the major issues of concern to the Baltic States since the restoration of their independence in 1991. At their initiative, an item entitled "Complete withdrawal of foreign military forces from the territories of the Baltic States" was included in the agenda of the forty-seventh session of the General Assembly.

2. In its resolution 47/21 of 25 November 1992, the Assembly, inter alia, called upon all States concerned to conclude without delay appropriate agreements, including timetables, for the early, orderly and complete withdrawal of foreign military forces from the territories of Estonia, Latvia and Lithuania; and urged the Secretary-General to use his good offices to facilitate the complete withdrawal of foreign military forces from the territories concerned. In August/September 1993, the Special Envoy of the Secretary-General, Professor Tommy Koh, Ambassador-at-Large in the Ministry of Foreign Affairs of Singapore, led a good offices mission to the Russian Federation, Lithuania, Latvia and Estonia. The General Assembly was informed of the results and conclusions of his mission in the report of the Secretary-General to the Assembly at its forty-eighth session (A/48/501).

3. The present report is submitted pursuant to General Assembly resolution 48/18 of 15 November 1993, in which the General Assembly urged the Secretary-General to use his good offices to facilitate the complete withdrawal of foreign military forces from the territories of Estonia and Latvia; and requested him to

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* A/49/150.

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keep Member States informed of progress towards the implementation of the resolution and to report thereon to the Assembly at its forty-ninth session.

4. Pursuant to resolution 48/18, the Secretary-General followed closely the continuing negotiations between the three Baltic States and the Russian Federation. Mr. Marrack Goulding, Under-Secretary-General for Political Affairs, held several rounds of consultations on the matter with all parties concerned and informed them of the readiness of the Secretary-General to make his good offices available to facilitate the completion of negotiations on issues related to the withdrawal of foreign military forces from Estonia and Latvia.

II. CURRENT SITUATION REGARDING COMPLETE WITHDRAWAL OF FOREIGN MILITARY FORCES FROM THE TERRITORIES OF THE BALTIC STATES

A. Lithuania

5. Russian troops withdrew from Lithuania on 31 August 1993. Those troops were relocated to the territory of the Russian Federation, including the Kaliningrad Oblast, an enclave bordering Lithuania and Poland. The issue of military transit by the Russian Federation through the territory of Lithuania to the Kaliningrad Oblast is still a subject of bilateral negotiations.

B. Latvia

6. At a summit meeting between President Boris N. Yeltsin of the Russian Federation and President Guntis Ulmanis of Latvia, held on 30 April 1994, a number of agreements relating to the withdrawal of troops were signed. The package included the Treaty on the Regulations, Time-Frame and Procedure for the Complete Withdrawal of Russian Troops and Their Legal Status During the Period of Withdrawal, the Agreement on Social Guarantees for Russian Military Personnel Residing in the Territory of Latvia Until Their Complete Withdrawal, the Agreement on Social Guarantees for Russian Federation Retired Military Personnel and Members of Their Families Living in the Territory of Latvia and its Additional Protocol, and the Agreement on the Legal Status of the Skrunda Radar Station During its Temporary Operation and Dismantlement.

7. In accordance with the Russian-Latvian agreements of 30 April 1994, the Russian Federation withdrew its troops before 31 August 1994. In return Latvia agreed to grant social benefits to the Russian retired military personnel and members of their families in Latvia. Both sides have also agreed to establish a special fund for the repatriation of those retirees who might wish to return to the Russian Federation.

Skrunda

8. Latvia has agreed to allow the Russian Federation to operate the anti-ballistic missile early-warning radar at Skrunda for four more years after the troop withdrawal, during which time Russia would build a similar

installation elsewhere. After that period, Russia would dismantle the Skrunda radar in 18 months. In a letter to the Secretary-General dated 27 July 1994 (see (A/49/344-S/1994/1008), the Permanent Representative of the Russian Federation to the United Nations confirmed that the guarantees provided by the Russian Federation to Latvia in the Agreement on the Legal Status of the Skrunda Radar Station During its Temporary Operation and Dismantlement would not be used to carry out acts directed against the sovereignty or security interests of the Republic of Latvia.

C. Estonia

9. At a summit meeting on 26 July 1994, President Boris N. Yeltsin of the Russian Federation and President Lennart Meri of Estonia signed the Agreement on the Withdrawal of Armed Forces of the Russian Federation from the Territory of the Republic of Estonia and on Terms for Their Temporary Stationing in the Territory of the Republic of Estonia, and the Agreement on Social Guarantees for Russian Federation Retired Military Personnel in the Territory of the Republic of Estonia.

10. According to those agreements, the remaining Russian troops would withdraw from Estonia on 31 August 1994, while families of the military personnel would be able to remain in Estonia for up to a year after the troop withdrawal. The withdrawal of Russian troops was completed on schedule. Retired military personnel and members of their families receive, if they so request, permits to reside in Estonia; this excludes persons who, by decision of the Government of Estonia have for good reason been refused such permits, on the grounds that they pose a threat to the security of Estonia. An advisory commission to review the applications for residence permits submitted by Russian retired and demobilized military personnel has been established by the Government of Estonia. A representative of the Conference for Security and Cooperation in Europe (CSCE) was invited to participate in the work of the commission and, in accordance with a decision of the CSCE Committee of Senior Officials of 16 September 1994, will do so.

Paldiski

11. According to the agreement on the procedure and terms of dismantling of the nuclear reactors, which was signed by Estonia and the Russian Federation on 30 July 1994, Russia will dismantle the nuclear reactors at Paldiski by 30 September 1995. During that period the Russian side will be responsible for nuclear safety and for the internal security of the installation, while the Estonian side will provide its external security. Both sides have agreed to provide necessary assistance for an international group of experts on nuclear safety during the implementation of the agreement. The Russian specialists will be granted residence permits for the period and members of their families will have the right to remain in Estonia until 15 May 1996.

III. OBSERVATIONS

12. The Secretary-General commends all the parties concerned for their success in resolving the problems related to the presence of foreign armed forces in the territory of the Baltic States. The constructive attitude, political will and spirit of compromise shown by the leaderships of Estonia, Latvia, Lithuania and the Russian Federation have enabled this result to be achieved. The support of the international community has also been most important. The completion of Russian troop withdrawals from the territories of the Baltic States will enhance stability and will contribute to the development of good-neighbourly relations and cooperation in the region. The Secretary-General is confident that it will open a new page in relations between the Baltic States and the Russian Federation.

13. He also commends Estonia, Latvia, Lithuania, Denmark, Norway, the United States of America and other countries that have joined in a multinational effort to help the Russian Federation build the housing needed for troops and their families returning from the Baltic States.

14. However, there are still some points of concern. The representatives of both Estonia and Latvia have expressed their anxieties with regard to the fact that Russia allegedly demobilized a significant number of Russian officers in those countries in recent months, instead of withdrawing them to Russia. Estonia and Latvia do not consider those officers to be retirees and believe they should leave their territories as a part of a military contingent. Estonia and Latvia have also expressed concerns about the environmental damage caused by the deployment of Russian troops on their territories.

15. The Secretary-General remains ready to provide his good offices to facilitate, if necessary, the full implementation of the agreements reached by the parties, should they so wish.

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Item 63 (a) of the provisional agenda*

GENERAL AND COMPLETE DISARMAMENT

Notification of nuclear tests

Note by the Secretary-General

I. INTRODUCTION

1. On 30 November 1987, the General Assembly adopted resolution 42/38 C, the operative part of which reads as follows:

"The General Assembly,

"...

"1. Calls upon all States to comply with resolution 41/59 N;

"2. Again urges each of the States conducting nuclear explosions to provide to the Secretary-General within one week of each nuclear explosion such data referred to in paragraph 1 of resolution 41/59 N as they may have available;

"3. Invites all other States to provide to the Secretary-General any such data on nuclear explosions they may have available;

"4. Requests the Secretary-General to make this information immediately available to all Member States and to submit to the General Assembly annually a register of the information provided on nuclear explosions during the preceding twelve months."

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* A/49/150.

2. Pursuant to paragraph 4 of the resolution, the relevant information received from one Member State, Australia, during the preceding 12 months (15 September 1993-14 September 1994) is reproduced in section II of the present note in the form of an annual register.

3. The information presented in section II was previously circulated in documents A/49/68 and Add.1.

II. ANNUAL REGISTER

Data provided by States

AUSTRALIA

Data on nuclear explosions derived from Australian seismological facilities and from institutions in other countries cooperating in the monitoring of earthquakes and nuclear explosions

Quarterly reports on presumed underground nuclear explosions 1/

July-September 1993

Month 1993	Day	Universal time h/m	Locality	Estimated body-wave magnitude	Estimated yield (kilotonnes)	Sequence number
July			Nil			
August			Nil			
September			Nil			

October-December 1993

Month 1993	Day	Universal time h/m	Locality	Estimated body-wave magnitude	Estimated yield (kilotonnes)	Sequence number
October	05	0200	Lop Nor, China	5.9	40-150	93/1
November			Nil			
December			Nil			

April-June 1994

Month 1994	Day	Universal time h/m	Locality	Estimated body-wave magnitude	Estimated yield (kilotonnes)	Sequence number
April			Nil			
May			Nil			
June	10	0626	Lop Nor, China	5.7	20-80	94/1

Notes

1/ For a complete explanatory note, see the annex to A/49/68 and Add.1.

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CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS

Report of the Secretary-General

1. In its resolution 48/79 of 16 December 1993, the General Assembly, having recalled with satisfaction the adoption, on 10 October 1980, of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, 1/ together with the Protocol on Non-Detectable Fragments (Protocol I), 1/ the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II) 1/ and the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), 1/ registered its satisfaction with the report of the Secretary-General (A/48/389); noted with satisfaction that additional States had signed, ratified or accepted the Convention, which had been opened for signature in New York on 10 April 1981, or had acceded to it; urgently called upon all States that had not yet done so to take all measures to become parties, as soon as possible, to the Convention and upon successor States to take appropriate measures so that ultimately access to that instrument would be universal; and called upon the Secretary-General, in his capacity as Depositary of the Convention and its three Protocols, to inform it periodically of accessions to the Convention and the Protocols.

2. Pursuant to the request of the General Assembly, the actions with respect to the Convention and its three Protocols for the period under review, that is, from 1 September 1993 to 31 August 1994, are indicated in the annex to the present report.

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* A/49/150.

3. As at 31 August 1994, the following 41 States were parties to the Convention: Australia, Austria, Belarus, Benin, Bosnia and Herzegovina, Bulgaria, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Hungary, India, Japan, Lao People's Democratic Republic, Latvia, Liechtenstein, Mexico, Mongolia, Netherlands, New Zealand, Niger, Norway, Pakistan, Poland, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tunisia, Ukraine and Yugoslavia.

Notes

1/ A/CONF.95/15 and Corr.2, annex I. For the printed text of the Convention and its Protocols, see The United Nations Disarmament Yearbook, vol. 5: 1980 (United Nations publication, Sales No. E.81.IX.4), appendix VII.

ANNEX

Actions in respect of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its three Protocols during the period from 1 September 1993 to 31 August 1994

States	Ratification, acceptance (A) approval (AA) or accession (a) succession (d)	Acceptance pursuant to article 4, paragraphs 3 and 4 Protocols		
		I	II	III
Bosnia and Herzegovina a/	1 September 1993 (d)	X	X	X
Canada	24 June 1994	X	X	X
Croatia b/	2 December 1993 (d)	X	X	X
New Zealand	18 October 1993	X	X	X
Spain	29 December 1993	X	X	X

a/ Bosnia and Herzegovina succeeded to the Convention, which had been ratified by Yugoslavia on 24 May 1983, with effect from 6 March 1992, the date on which Bosnia and Herzegovina assumed responsibility for its international relations.

b/ Croatia succeeded to the Convention, which had been ratified by Yugoslavia on 24 May 1983, with effect from 8 October 1991, the date on which Croatia assumed responsibility for its international relations.

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GENERAL ASSEMBLY
Forty-ninth session
Items 24, 33, 34, 55, 72, 91, 95, 98, 99, 101, 103 and 145 of the provisional agenda*

SECURITY COUNCIL
Forty-ninth year

NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA

QUESTION OF EQUITABLE REPRESENTATION ON AND INCREASE IN THE MEMBERSHIP OF THE SECURITY COUNCIL

THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS AND THEIR IMPACT ON INTERNATIONAL SECURITY

CONSOLIDATION OF THE REGIME ESTABLISHED BY THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA AND THE CARIBBEAN

SUSTAINABLE DEVELOPMENT AND INTERNATIONAL ECONOMIC COOPERATION

AGENDA FOR DEVELOPMENT

SOCIAL DEVELOPMENT, INCLUDING QUESTIONS RELATING TO THE WORLD SOCIAL SITUATION AND TO YOUTH, AGEING, DISABLED PERSONS AND THE FAMILY

CRIME PREVENTION AND CRIMINAL JUSTICE

INTERNATIONAL DRUG CONTROL

HUMAN RIGHTS QUESTIONS

MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

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* A/49/150.

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Letter dated 15 September 1994 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General

I have the honour to submit herewith the documents adopted at the eighth annual summit of the Rio Group, held at Rio de Janeiro on 9 and 10 September 1994, with participation by Argentina, Bolivia, Chile, Colombia, Ecuador, Guatemala, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela and Brazil.

I should be grateful if you would have this letter and its annexes circulated as a document of the General Assembly under items 24, 33, 34, 55, 72, 91, 95, 98, 99, 101, 103 and 145 of the provisional agenda (A/49/150), and of the Security Council.

(Signed) Ronaldo Mota SARDENBERG
Ambassador
Permanent Representative of Brazil
to the United Nations

ANNEX I

[Original: English and Spanish]

Rio de Janeiro Declaration

1. As we meet at this eighth annual summit, we notice with great satisfaction that, this year, several democratic electoral processes are taking place in the Americas and the Caribbean. This fact provides clear evidence of the vitality of democracy in our region, in the consolidation and defence of which the Permanent Political Consultation and Concertation Mechanism has played a decisive role.

2. The stability of democratic institutions has made it possible for an increasingly close understanding among the countries of the region. The Rio Group has consolidated itself as an important forum for consultation and dialogue among the highest authorities of Latin America and the Caribbean. The closer relations we have established derive from the discussion of issues ranging from strictly political to economic affairs, from the strengthening of democracy to advances in the process of regional integration, from the expansion of trade to the preservation of our common cultural roots, that reinforce one another through a growing awareness of shared interests.

3. We recognize that the strengthening of democracy is closely related to a form of development which is responsive to the aspirations of our peoples for well-being and social and economic equity. We will spare no effort to preserve and promote democracy and to stimulate economic and social development in our region.

4. Institutional stability and the democratic system will be strengthened through dialogue, mutual cooperation and strict adherence to the principles enshrined in the Charters of the United Nations and of the Organization of American States, among which are non-interference in the internal affairs of each country and self-determination.

5. We reiterate the consensus reached at the World Conference on Human Rights held in Vienna in 1993, and reaffirm that all human rights are interdependent, indivisible and therefore should not be respected selectively.

6. We express our satisfaction over the appointment of a Latin American as the first United Nations High Commissioner for Human Rights, in recognition of the work carried out in this field in Latin America and the Caribbean.

7. We acknowledge with satisfaction the substantial increase in commercial and economic flows resulting from bilateral free trade agreements between several Latin American countries. The integration process now covers the entire region. MERCOSUR is consolidating itself with the adoption of a common external tariff, which comes into effect on 1 January 1995, which will establish a customs union, and at the same time aims to promote associative links with other Latin American countries, such as Bolivia and Chile. We take note of the renewed dynamism of the Andean Pact and of the signing of the Free Trade Agreement of the Group of

Three, which establishes new forms of economic and commercial cooperation among Colombia, Mexico and Venezuela, and also of the agreements between these countries and those of Central America. We are aware of the strengthening of the Central American Integration System, the vitality of the Caribbean Community, and the recent signing of the Convention creating the Association of Caribbean States. We strongly welcome the work being carried out at ALADI, which provides a legal framework and a negotiating forum for expanding these multiple and positive initiatives working for integration. On the other hand, we believe that the North American Free Trade Agreement (NAFTA) represents an important contribution to the liberalization of trade within the hemisphere.

8. All these initiatives allow an optimistic view concerning convergence in the near future of the different subregional schemes into a form of even wider economic cooperation in the hemisphere that strengthens the movement towards greater integration of the region into the world economy. The South American Free Trade Area (ALCSA), to be achieved through the negotiation of a network of free trade arrangements, will be a means to reaffirm and foster this process.

9. The liberalization and modernization of our economies constitute the necessary basis for the economic and social development of Latin America and the Caribbean, and for a greater role of the region in the international economy. What is required for the development of all our countries is not only the increase in investment flows but also growth in public and private financing. The development of the appropriate transportation and communications infrastructure and optimal use of energy resources require major investments by the region. In this context, we emphasize the importance of undertaking actions that promote the development of border regions between our countries.

10. Achieving economic growth and social development is the greatest challenge facing Latin American and Caribbean countries. Measures aiming at the eradication of extreme poverty will continue to receive high priority by both the State and society.

11. In the knowledge that the full economic and social development of our peoples undoubtedly requires a sustained effort in the field of education, we commit ourselves to give priority to actions to eliminate illiteracy, progressively improve the quality of our peoples' education at all levels and give a larger segment of our population access to technical as well as higher education.

12. Latin American and Caribbean countries express their firm conviction that the World Summit on Social Development, to be held in Copenhagen in March 1995, offers an opportunity for the international community to assure equitable treatment to social integration, particularly to the benefit of the most marginalized and least-favoured groups, and to relieve extreme poverty and increase productive employment.

13. The signing of the Uruguay Round agreements, under the sponsorship of GATT, and the creation of the World Trade Organization (WTO) mark the beginning of a new era in international trade. We call upon all countries to ratify these treaties as soon as possible and to refrain from protectionist policies and from

creating obstacles to the liberalization and growth of international trade, particularly in agricultural products.

14. The drive to modernize our economies requires the adoption of new technologies, which enhance productivity and favour the adoption of more efficient and environmentally acceptable productive processes. National and international controls on the transfer of dual-use technologies should not obstruct access to goods and advanced technologies employed for peaceful purposes in the cause of development.

15. As regards access to commercially available technology, we are not concerned about transfers on a concessional basis only. We share a common interest in taking an active part, both as producers and consumers, in the flow of knowledge and goods in the field of advanced technology.

16. Our progress in non-proliferation, by reason of which Latin America and the Caribbean are virtually the first populated region free from nuclear weapons and other weapons of mass destruction, represents a further contribution of the region to international peace and security, as demonstrated by the progress made towards the full implementation of the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (the Tlatelolco Treaty). In our region confidence-building can now be considered a reality. We have adopted measures to ensure transparency in intraregional relations and we spend comparatively less on arms and on the maintenance of armed forces than the other regions of the world.

17. Efforts at cooperation of the international community must be enhanced so as to defend our peoples from the threats posed by transnational organized crime and to intensify the fight against corruption, as well as to promote a more efficient administration of justice. Special emphasis should be placed on the fight against drug trafficking, the production and illegal consumption of drugs, the diversion of chemical precursors, the laundering of money and trafficking in arms. These are the main causes of increased violence and criminal activity and constitute a threat to the health and well-being of our peoples. To guarantee that these efforts contribute to governability and to the stability of the democratic system, the operative aspects of cooperation agreements must be improved. These agreements must equally make allowances for the specific national requirements of our countries and in this way helps to strengthen the domestic consensus in each of them.

18. We strongly condemn all terrorist attacks and, in particular, those recently perpetrated in our region and we call upon the international community to fight this scourge. In this context we reaffirm the importance of the extradition treaties ratified by our countries and of the actions undertaken by the legal authorities involved.

19. We express our decided support for the efforts of those countries undergoing processes of internal pacification and internal reconciliation and we call upon the international community to join us in expressing solidarity.

20. We attach great importance to the process of enlargement and reform of the United Nations Security Council with a view to correcting imbalances in its

present composition, improving its decision-making process and rendering its working procedures more transparent, so that it reflects in a more legitimate and representative manner all Member States of the Organization. We agree that Latin America and the Caribbean, by reason of its legal tradition and contribution to the cause of peace, should be contemplated in any enlargement of the Council.

21. We express our satisfaction with the Declaration of the Heads of States and Government of the Countries of the European Union, in Corfu, which reaffirmed the importance of relations with Latin America and the Caribbean and its regional groupings. We invite the European Union to join with us in adopting a common strategy in which new channels of dialogue and cooperation are defined so as to strengthen economic and trade relations and so establish an authentic association that benefits both regions.

22. We are aware of the importance of continuing our increasingly active dialogue with Japan and the People's Republic of China. We value dialogue with other countries or groups of countries such as the Gulf Cooperation Council and the Association of South East Asian Nations.

23. We are confident that the Summit of Democratically Elected Heads of State and Government of the Hemisphere will raise the level of political dialogue and will result in concrete actions that strengthen the economic, commercial and cooperation links between the countries of the hemisphere. To this end, as a particularly significant interlocutor of the United States, the Rio Group reiterates its willingness to move ahead with consultations with that country.

24. We, heads of State and Government, assembled in Rio de Janeiro, would like to express our gratitude to President Itamar Franco for the hospitality shown to us by the Government and people of Brazil, as well as to extend our congratulations for the efficient organization and conduct of the eighth summit of the Permanent Mechanism of Political Consultation and Concertation.

ANNEX II

[Original: English and Spanish]

Declaration of the Rio Group on the Haitian Situation

1. The heads of State and Government, meeting at the Eighth Rio Group Summit, express their unswerving solidarity with the people of Haiti at this time of great suffering and renew their firm commitment to search for a lasting solution to the crisis in that country, in accordance with the principles of the Charters of the United Nations and of the Organization of American States.

2. They strongly condemn and repudiate the obstinate and stubborn attitude of those illegitimately holding power in Haiti and strongly call upon them to immediately hand over authority to the legitimately and democratically elected Government of Haiti, in accordance with the repeatedly expressed wish of the international community.

3. The heads of State and Government of the Rio Group are convinced that compliance with this demand will avoid more serious consequences and will allow, through the committed efforts of the hemisphere, for cooperation in order to bring about the restoration of democratic institutions in that sister nation.

4. The heads of State and Government of the Rio Group wish to see a peaceful solution to this crisis.

ANNEX III

[Original: English and Spanish]

Declaration of the Rio Group on Cuba

1. The heads of State and Government, meeting at the Eighth Summit of the Rio Group, having examined the present situation in the Republic of Cuba, express their concern about the risks of undesirable consequences of the Cuban crisis.

2. Having in mind the principles of non-intervention and self-determination, they consider that in order to avoid even greater suffering of the Cuban people it is essential that there be in Cuba, in accordance with the will of the people, a peaceful transition to a democratic and pluralistic system, which respects human rights and freedom of opinion.

3. The heads of State and Government believe that, at this critical juncture, they can and should launch a constructive dialogue with Cuba, in order to contribute to the internal process of democratization of the sister nation. They endeavour, in this way, to see Cuba closer to Latin American and Caribbean countries and fully reintegrated into the hemispheric fold.

4. In this context they reaffirm the need to lift the embargo against Cuba.

5. They express, on the other hand, the importance they accord to the decision of the Government of Cuba to invite the United Nations High Commissioner for Human Rights to visit Cuba in the near future, as well as that Government's decision to accede to the Treaty of Tlatelolco.

6. They consider that the direct negotiations currently taking place between the United States of America and the Republic of Cuba are a positive development. The results that have been announced so far confirm the need to continue the dialogue.

ANNEX IV

[Original: English and Spanish]

Declaration of the Rio Group on coordination of the fight against drug trafficking

1. The heads of State and Government, meeting at the Eighth Summit of the Rio Group, reaffirm their firm political commitment to tackle and fight the scourge of drug trafficking, which continues to afflict the international community.

2. They express their growing concern over the continued spread of drug trafficking and the enormous danger it poses to social institutions, to the observance of human rights and to democratic stability in their countries.

3. Aware of the magnitude of the problem, they agree that it calls for concerted and more effective international action.

4. To this end the heads of State and Government agree to harmonize, as soon as possible, their national legislation on money laundering, swift extradition procedures, confiscation of property and cooperation in the field of law enforcement.

5. They further agree on the need for international agreements to ensure the necessary cooperation in these matters.

6. They also express the need to foster alternative forms of economic development by cooperation in opening up markets and increasing investment in coca growing areas.

7. They also express their wish to see included in the agenda of the Miami Summit the question of an inter-American convention to combat money laundering.